REMARKS

Claims 1-20 are currently pending in the patent application. The Examiner has objected to the drawings under 37 CFR 1.83(a). In response to the objection, Applicants submit a proposed amendment to Fig. 1 to include the impact value component 111 and processing component 121 of processor 101. Applicants also submit amendments to the Specification to refer to the components of Fig. 1. Applicants aver that no new matter is introduced by the proposed amendments, since the image value component and processing component were clearly presented in the original application, for example in Claim 10.

The Examiner has rejected Claim 1 under 35 USC 112 for lack of antecedent basis for the term "change". Applicants submit herein an amendment to Claim 1 to correct the problem.

The Examiner has rejected Claims 1-20 under 35 USC 102 as anticipated by Borowsky. The present invention is directed to an apparatus and a method for evaluating workload across a processing environment having a plurality of computer systems each having a plurality of assigned workload units, wherein the method comprises the steps of assigning a plurality of impact values, one to each workload

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unit assigned for each of the plurality of computing systems, said assigning comprising determining a change in system expiration date should each one of said plurality of workload units be removed from the system; and assessing the workload based on the impact values. The Specification is very clear on the meaning of a change in the "expiration date" as detailed on page 10, line 23-page 11, line 18. The term "expiration date" is the date when the server workload is expected to exceed its capacity because of growth in workload.

The Borowsky patent is directed to a method and apparatus for implementing Quality of Service (QoS) guarantees in designing data storage systems. Borowsky estimates workload for a data storage system in terms of time and then determines whether the estimate would fall within the Quality of Service guarantees desired for that data storage system. As expressly taught by Borowsky in Col. 7, lines 40-43, "[t]he units of the workload distribution W(T) is in terms of time, wherein it is determined the total length of time for the host 84 to complete the work." Once Borowsky has estimated the total time, it then compares the total time to a preset value, "bound T" which is based on the QoS guarantee. If the time

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estimate exceeds bound T, then the host would not meet the QoS guarantee for the workload.

Applicants respectfully assert that the Borowsky patent does not teach or suggest the invention as claimed. With specific reference to the claim language, Borowsky does not teach a step for assigning a plurality of impact values, one to each workload unit assigned for each of the plurality of computing systems, wherein the assigning comprises determining a change in system expiration date should each one of said plurality of workload units be removed from the system. Borowsky does not look at separate workload units as they relate to the total time estimate. Borowsky simply determines or estimates the total length of time for a host to complete work. Borowsky does not assign impact values related to the expiration date when a server workload would be expected to exceed capacity. Applicants have pointed to the express definition of "expiration date" in the Specification and remind the Examiner that the meaning which an applicant defines for a term cannot be ignored or reinterpreted.

Applicants further assert that the Borowsky patent does not teach or suggest the second step or means for assessing the workload based on the impact values. Borowsky does not assess workload based on its own workload distribution

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value, let alone on impact values related to a change in system expiration date. Borowsky simply estimates a total length of time and compares it to a threshold (bound T). If the total length of time exceeds "bound T", then a new estimate is done for a different workload. While Borowsky uses the term "reassesses", the "reassessment" of workload, it is neither based on its calculated workload distribution estimate nor on impact values. Rather, Borowsky simply selects a different workload and performs a new estimate of

It is well established under U. S. Patent Law that, for a reference to anticipate claim language under 35 USC 102, that reference must teach each and every claim feature. Since the Borowsky patent does not teach steps or means for assigning a plurality of impact values, one to each workload unit assigned for each of the plurality of computing systems, wherein the assigning comprising determining a change in system expiration date should each one of the plurality of workload units be removed from the system; and assessing the workload based on the impact values, it cannot be maintained that Borowsky anticipates the invention as set forth in the independent claims, Claims 1, 10, and 12. Applicants further point out that, a reference which does not anticipate the language of the independent claims cannot be said to anticipate the claims which depend therefrom and

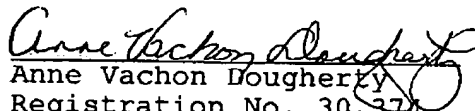YOR920000461   -14-

add further limitations thereto. Accordingly, Applicants conclude that all of the pending claims are patentable over the Borowsky patent.

Based on the foregoing amendments and remarks, Applicants respectfully request entry of the amendments, reconsideration of the amended claim language in light of the remarks, withdrawal of the rejections, and allowance of the claims.

Respectfully submitted,

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